

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
e.	)	No. 7:02-CV-43
	)	
MARZONE, INC., et al.,	)	HON. HUGH LAWSON
	)	
Defendants.	)	

CONSENT DECREE

I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607, as amended ("CERCLA"), seeking reimbursement of response costs incurred or to be incurred for response actions taken or to be taken at or in connection with the release or threatened release of hazardous substances at and from the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia (the "Site").

B. The defendants that have entered into this Consent Decree ("Settling Defendants") do not admit any liability to Plaintiff arising out of the transactions or occurrences alleged

in the complaint.

C. The United States and Settling Defendants agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED, ADJUDGED, AND DECREED:

## **II. JURISDICTION**

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9607 and 9613(b) and also has personal jurisdiction over Settling Defendants. Settling Defendants consent to and shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

## **III. PARTIES BOUND**

2. This Consent Decree is binding upon the United States and upon Settling Defendants and their heirs, successors and assigns. Any change in ownership or corporate or other legal status, including, but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent

Decree.

#### IV. DEFINITIONS

3. Unless otherwise expressly provided herein, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in any appendix attached hereto, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*

b. "Consent Decree" shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, this Consent Decree shall control.

c. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

f. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

g. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

h. Operable Unit One ("OU1") shall mean Operable Unit One of the Site, as previously designated by EPA in the OU1 ROD dated September 1994, and as generally shown on the map attached as Appendix A.

i. Operable Unit Two ("OU2") shall mean Operable Unit Two of the Site, as previously designated by EPA in the OU2 ROD dated September 2002, and as generally shown on the map attached as Appendix A.

j. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case

letter.

k. "Parties" shall mean the United States and the Settling Defendants.

l. "Past OU1 Costs" shall mean all costs not inconsistent with the NCP, including but not limited to direct and indirect costs, that the United States has incurred at or in connection with OU1 of the Site as of the date of lodging of this Consent Decree, plus accrued interest on all such costs.

m. "Past OU2 Costs" shall mean all costs not inconsistent with the NCP, including but not limited to direct and indirect costs, that the United States has incurred at or in connection with OU2 of the Site as of the date of lodging of this Consent Decree, plus accrued interest on all such costs.

n. "OU2 Soil Excavation Costs" shall mean all costs not inconsistent with the NCP, including but not limited to direct and indirect costs, that the United States has incurred or will incur at or in connection with the removal of contaminated soils and sediment at OU2 as described in Section 9.1 of the OU2 ROD dated September 2002.

o. "OU2 Monitored Natural Attenuation Costs" or "OU2 MNA Costs" shall mean all costs not inconsistent with the NCP, including but not limited to direct and indirect costs, that the United States has incurred or will incur at or in connection with

the monitoring and the natural attenuation remedy selected in Section 9.2 of the OU2 ROD for groundwater and Section 9.1.1(11) for the sediment. OU2 MNA Costs do not include any costs associated with any contingent remedy for groundwater in Section 9.2 of the OU2 ROD or any other remedial action selected for OU2 other than monitored natural attenuation. If any such contingent remedy or other future remedial action for groundwater is selected by EPA, OU2 MNA Costs do not include any costs incurred after initiation of physical onsite construction of any such contingent remedy or other remedial action, regardless of whether such costs are for monitoring.

p. "Plaintiff" shall mean the United States.

q. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

r. "Settling Defendants" shall mean those parties identified in Appendix B.

s. "Site" shall mean the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia (the "Site"), encompassing approximately 3 acres, and generally shown on the map included in the attached Appendix A.

t. "United States" shall mean the United States of America, including its departments, agencies and instrumentalities.

**V. STATEMENT OF PURPOSE**

4. By entering into this Consent Decree, the mutual objective of the Parties is for Settling Defendants to make a cash payment to address certain liabilities for the Site as provided in the Covenant Not to Sue by Plaintiff in Section VIII and subject to the Reservations of Rights by United States in Section IX.

**VI. PAYMENT OF RESPONSE COSTS**

5. Within fifteen (15) days after Settling Defendants receive notice from the United States that this Consent Decree has been lodged, Settling Defendants shall deposit Three Million, Three Hundred Thousand Dollars (\$3,300,000.00) into an escrow account bearing interest on commercially reasonable terms, in a federally-chartered bank (the "Escrow Account"). If the Consent Decree is not entered by the Court, and the time for any appeal of that decision has run or if the Court's denial of entry is upheld on appeal, the monies placed in escrow, together with accrued interest thereon, shall be returned to Settling Defendants. If the Consent Decree is entered by the Court, Settling Defendants shall, within 15 days of notice thereof, cause the monies placed in the Escrow Account together with accrued interest thereon to be paid to EPA in accordance with Paragraph 6 below.

6. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with current EFT procedures, referencing USAO File Number 2002V00209, the EPA Region and Site Spill ID Number 04E9, and DOJ Case Number 90-11-3-274/1. Payment shall be made in accordance with instructions provided to Settling Defendants by the Financial Litigation Unit of the U.S. Attorney's Office in the Middle District of Georgia following lodging of the Consent Decree. Any payments received by the Department of Justice after 4:00 p.m. Eastern Time shall be credited on the next business day.

7. At the time of payment, Settling Defendants shall send notice that payment has been made to EPA and DOJ in accordance with Section XV (Notices and Submissions) and to:

Ms. Paula V. Batchelor  
U.S. EPA, Region 4  
Superfund Enforcement and Information Management Branch  
61 Forsyth St., S.W.  
Atlanta, Georgia 30303

8. The total amount to be paid pursuant to Paragraphs 5 and 6 by Settling Defendants shall be deposited in the Marzone Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with OU2 of the Site. Any funds not used in connection with OU2 of the Site shall be transferred by EPA to



the EPA Hazardous Substance Superfund.

**VII. FAILURE TO COMPLY WITH CONSENT DECREE**

9. Interest on Late Payments. If any Settling Defendant fails to make any payment under Paragraphs 5 and 6 by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

10. Stipulated Penalties.

a. If any amounts due under Paragraphs 5 and 6 are not paid by the required due date, Settling Defendants shall be in violation of this Consent Decree and shall pay, as a stipulated penalty, in addition to the interest required by Paragraph 9, \$500 per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of the penalties by EPA. All payments to EPA under this Paragraph shall be identified as "stipulated penalties" and shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." The check, or a letter accompanying the check, shall reference the name and address of the party(ies) making payment, the Site name, the USAO File Number 2002V00209, the EPA Region and Site Spill ID Number 04E9, and DOJ Case Number 90-11-3-274/1, and shall be sent to:

U.S. Environmental Protection Agency  
Region 4

Superfund Accounting  
P.O. Box 100142  
Atlanta, GA 30384  
Attn: Collection Officer in Superfund

c. At the time of each payment, Settling Defendants shall send notice that payment has been made to EPA and DOJ in accordance with Section XV (Notices and Submissions) and to

Ms. Paula V. Batchelor  
U.S. EPA, Region 4  
Superfund Enforcement and Information Management Branch  
61 Forsyth St., S.W.  
Atlanta, Georgia 30303

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendants of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

11. If the United States brings an action to enforce this Consent Decree, Settling Defendants shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

12. Payments made under this Section shall be in addition to any other remedies or sanctions available to Plaintiff by virtue of Settling Defendants' failure to comply with the requirements of this Consent Decree.

13. The obligations of Settling Defendants to pay amounts owed the United States under this Consent Decree are joint and several. In the event of the failure of any one or more Settling Defendants to make the payments required under this Consent Decree, the remaining Settling Defendants shall be responsible for such payments.

14. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendants from payment as required by Section VI or from performance of any other requirements of this Consent Decree.

#### **VIII. COVENANT NOT TO SUE BY PLAINTIFF**

15. Covenant Not to Sue by United States. Except as specifically provided in Section IX (Reservation of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), with regard to Past OU1 Costs; Past OU2 Costs; OU2 Soil Excavation Costs and OU2 MNA Costs. With respect to present and future liability, this covenant not to sue shall take effect upon receipt by EPA of all payments required by Section VI (Payment of

Response Costs) and any amount due under Section VII (Failure to Comply with Consent Decree). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree. This covenant not to sue extends only to Settling Defendants and does not extend to any other person.

**IX. RESERVATION OF RIGHTS BY UNITED STATES**

16. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within the Covenant Not to Sue by United States in Paragraph 15. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants, with respect to:

- a. liability for failure of Settling Defendants to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- d. liability, based upon Settling Defendants' operation of the Site, or upon Settling Defendants' transportation, treatment, storage, or disposal, or the

arrangement for the transportation, treatment, storage, or disposal, of a hazardous substance or a solid waste at or in connection with the Site, after signature of this Consent Decree by Settling Defendants;

e. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site;

f. liability for injunctive relief or administrative order enforcement under Section 106 or CERCLA, 42 U.S.C. §9606; and

g. liability for costs incurred or to be incurred not within the definition Past OU1 Costs; Past OU2 Costs, OU2 Soil Excavation Cost and OU2 MNA Costs.

**X. COVENANT NOT TO SUE BY SETTLING DEFENDANTS**

17. Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, for or with respect to the Site as of entry of this consent decree, and for and with respect to OU2 Soil Excavation Costs and OU2 MNA Costs that occur after entry of this consent decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611,

9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613.

18. Except as provided in Paragraph 22 (Waiver of Claim-Splitting Defenses), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 16 (c) - (g), but only to the extent that Settling Defendants' claims arise from the same response action or response costs that the United States is seeking pursuant to the applicable reservation. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

#### **XI. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION**

19. Except as provided in Paragraph 17, nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this

Consent Decree. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Decree may have under applicable law. Except as provided in Paragraph 17, the Parties expressly reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

20. The Parties agree, and by entering this Consent Decree this Court finds, that Settling Defendants are entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are Past OU1 Costs; Past OU2 Costs; OU2 Soil Excavation Costs; and OU2 MNA Costs. The "matters addressed" in this Consent Decree do not include those response costs or response actions as to which the United States has reserved its rights under this Consent Decree (except for claims for failure to comply with this Decree), in the event that the United States asserts rights against Settling Defendants coming within the scope of such reservations.

21. Each Settling Defendant agrees that, with respect to any suit or claim for contribution brought by it for matters related to this Consent Decree, it will notify EPA and DOJ in writing no later than 60 days prior to the initiation of such suit or claim. Each Settling Defendant also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify EPA and DOJ in writing within 10 days of service of the complaint or claim upon it. In addition, each Settling Defendant shall notify EPA and DOJ within 10 days of service or receipt of any Motion for Summary Judgment, and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

22. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not



to Sue by Plaintiff set forth in Section VIII. For purposes of the statute of limitations for filing a subsequent action under Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), the civil action filed by the United States in this case and settled by this Consent Decree constitutes an initial action and satisfies all requirements relating to such initial action.

## **XII. SITE ACCESS**

23. Commencing upon the date of lodging of this Consent Decree, any Settling Defendant that owns any portion of the Site agrees to provide the United States and its representatives, including EPA and its contractors, access at all reasonable times to the Site and to any other property owned or controlled by such Settling Defendants to which access is determined by EPA to be required for the implementation of this Consent Decree, or for the purpose of conducting any response activity related to the Site, including but not limited to:

- a. Monitoring of investigation, removal, remedial or other activities at the Site;
- b. Verifying any data or information submitted to the United States;
- c. Conducting investigations relating to contamination at or near the Site;
- d. Obtaining samples;

e. Assessing the need for, planning, or implementing response actions at or near the Site;

f. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendants or their agents, consistent with Section XIII (Access to Information); and

g. Assessing Settling Defendants' compliance with this Consent Decree.

24. Notwithstanding any provision of this Consent Decree, the United States retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Resource Conservation and Recovery Act, 42 U.S.C. § 6927, and any other applicable statutes or regulations.

25. Notice of Obligations to Successors-in-Title.

a. Within 15 days after entry of this Consent Decree, any Settling Defendant that owns any portion of the Site shall record a notice of entry of this Consent Decree with the Recorder's Office for the county where the Site is located. Thereafter, each deed, title, or other instrument conveying an interest in the property included in the Site shall contain a notice stating that the property is subject to this Consent Decree and shall reference the Court where a copy of the Consent Decree can be located and reviewed.

b. The obligations of the Settling Defendants with respect to the provision of access under Section XII (Site Access) shall be binding upon any and all persons who subsequently acquire any such interest or portion thereof (hereinafter "Successors-in-Title"). Within 15 days after the entry of this Consent Decree, the Settling Defendants who own any portion of the Site shall record at the Register's Office for the county where the Site is located, a notice of obligation to provide access under Section XII (Site Access) and related covenants, if any. Each subsequent instrument conveying an interest to any such property included in the Site shall reference the recorded location of such notice and covenants applicable to the property.

c. The Settling Defendants who own any portion of the Site shall, at least 30 days prior to the conveyance of any such interest, give written notice of this Consent Decree to the grantee and written notice to EPA of the proposed conveyance, including the name and address of the grantee, and the date on which notice of the Consent Decree was given to the grantee. In no event shall any such conveyance release or otherwise affect the liability of the Settling Defendants to comply with all provisions of this Consent Decree, absent the prior written consent of the United States.

### **XIII. ACCESS TO INFORMATION**

26. Except for documents and information that are privileged under the attorney-client privilege, the attorney-work product privilege, or any other privilege recognized by federal law as provided in paragraph 27, Settling Defendants shall provide to EPA, upon request, copies of all documents and information within its possession or control or that of their contractors or agents relating to activities at the Sites including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Site.

27. Confidential Business Information and Privileged Documents.

a. Settling Defendants may assert business confidentiality claims covering part or all of the documents or information submitted to Plaintiff under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. 2.203(b). This claim shall be substantiated by Settling Defendants at the time the assertion is made. Documents or information determined to be confidential by EPA will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality

accompanies documents or information when they are submitted to EPA, or if EPA has notified Settling Defendants that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA, the public may be given access to such documents or information without further notice to Settling Defendants.

b. Settling Defendants may assert that certain documents, records or other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege in lieu of providing documents, it shall provide Plaintiff with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted. However, no documents, reports or other information created or generated pursuant to the requirements of and after the entry of this Consent Decree with the United States shall be withheld on the grounds that they are privileged. If a claim of privilege applies only to a portion of a document, the document shall be provided to Plaintiff in redacted form to mask the privileged

information only. Settling Defendants shall retain all records and documents that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor.

28. No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

#### **XIV. RETENTION OF RECORDS**

29. Until ten (10) years after entry of this Consent Decree, Settling Defendants shall preserve and retain all records and documents now in their possession or control, or which come into their possession or control, that relate in any manner to response actions taken at the Site or to the liability of any person for response actions conducted and to be conducted at the Site, regardless of any corporate retention policy to the contrary.

30. After the conclusion of the document retention period in the preceding Paragraph, Settling Defendants shall notify EPA and DOJ at least 90 days prior to the destruction of any such records or documents, and, upon request by EPA or DOJ, Settling

Defendants shall deliver any such records or documents to EPA. Settling Defendants may assert that certain documents, records, or other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If a Settling Defendant asserts such a privilege, it shall provide Plaintiff with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or information; and 6) the privilege asserted. However, no documents, reports, or other information created or generated pursuant to the requirements of and after the entry of this Consent Decree with the United States shall be withheld on the grounds that they are privileged. If a claim of privilege applies only to a portion of a document, the document shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendants shall retain all records and documents that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor.

## XV. NOTICES AND SUBMISSIONS

31. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOJ, and Settling Defendants, respectively.

### As to the United States:

#### As to DOJ:

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice (DJ #90-11-3-274/1)  
P.O. Box 7611  
Washington, D.C. 20044-7611

#### As to EPA:

Amy Williams  
Remedial Project Manager  
Waste Management Division  
U.S. EPA, Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

Bonnie Sawyer  
Associate Regional Counsel  
U.S. EPA, Region 4  
61 Forsyth Street, S.W.  
Atlanta, GA 30303



As to Settling Defendants:

The names and addresses set forth on Appendix B.

**XVI. RETENTION OF JURISDICTION**

32. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

**XVII. INTEGRATION/APPENDICES**

33. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached to and incorporated into this Consent Decree: "Appendix A" is the map of the Site; and "Appendix B" is the complete list of Settling Defendants.

**XVIII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

34. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations which indicate that this Consent Decree

is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

35. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

#### **XIX. SIGNATORIES/SERVICE**

36. Each undersigned representative of a Settling Defendant to this Consent Decree and of the United States Department of Justice certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

37. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

38. Each Settling Defendant waives formal service of the summons and complaint as set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court. The Parties agree that Settling Defendants need not file an

answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree.

**XX. FINAL JUDGMENT**

39. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between and among the United States and the Settling Defendants. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2004.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

FOR THE UNITED STATES OF AMERICA

Date: 11.5.04

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THOMAS L. SANSONETTI  
Assistant Attorney General  
Environment and Natural Resources  
Division  
U.S. Department of Justice  
Washington, DC 20044-7611

Date: 11/2/04

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JAMES R. Mac~~Y~~YEAL  
Trial Attorney  
Environmental Enforcement Section  
Environment and Natural Resources  
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P.O. Box 7611  
Washington, DC 20044-7611

MAXWELL WOOD  
UNITED STATES ATTORNEY

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Assistant United States Attorney  
Georgia Bar No. 293239  
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Macon, GA 31202-1702  
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NOV 29 2004  
Date: \_\_\_\_\_

J. I. Palmer Jr. \_\_\_\_\_  
Regional Administrator  
Region IV  
U.S. Environmental Protection Agency  
61 Forsyth Street, S.W.  
Atlanta, GA 30303-8961]

OF COUNSEL:

BONNIE SAWYER  
Office of Environmental Accountability  
U.S. Environmental Protection Agency  
Region 4  
61 Forsyth Street, SW  
Atlanta, Georgia 30303

**Date:** September 1, 2004 **By:** \_\_\_\_\_

**Print Name**  
**Or Type:** M. A. Stimpert (Senior Vice President)

**Address:** 244 Perimeter Center Pkwy NE  
Atlanta, GA 30346

**For:** Gold Kist Inc.

J. David Dyson

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Gold Kist Inc.

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244 Perimeter Center Pkwy NE

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Atlanta, GA 30346

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THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

Date: 8/26/04

By: ~~DK~~ /

Print Name

Or Type: John W. Holleran,  
Sr. Vice President & General Counsel

Address: P.O. Box 50

Boise, ID 83728-0001

For: BOISE CASCADE CORPORATION

All Notices Shall Be Sent To:

Boise Cascade Corp.

Attn: Legal Dept.  
P.O. Box 50

Boise, ID 83728-0001



FOR SETTLING DEFENDANTS:

BOISE CASCADE CORPORATION

Date: \_\_\_\_\_

By:

\_\_\_\_\_  
HOLLISTER A. HILL, ESQ.  
Georgia Bar No. 003910  
TROUTMAN SANDERS, LLP  
600 Peachtree Street, N.E., Suite 5200  
Atlanta, Georgia 30308

HERCULES INCORPORATED

Date: 8/12/04

By:

\_\_\_\_\_  
THOMAS H. STRANG  
Corporate Manufacturing  
SHERA  
1313 North Market Street  
Wilmington, DE 19898-0001

ESTECH, INC.

Date: \_\_\_\_\_

By:

\_\_\_\_\_  
JOHN A. ANDREASEN, ESQ.  
MCGRATH, NORTH, MULLIN & KRATZ, P.C., LLC  
Suite 3700 First National Tower  
1601 Dodge Street  
Omaha, Nebraska 68108

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

**Date:** September 7, 2004

**By:** 

**Print Name**

**Or Type:** George R. Harvell, III

**Address:** 5909 Shelby Oaks Dr.  
Suite 146  
Memphis, TN 38134

**For:** Velsicol Chemical Corporation

**All Notices Shall Be Sent To:**

George R. Harvell, III  
Velsicol Chemical Corporation  
C/O Memphis Environmental Center, Inc.  
5909 Shelby Oaks Dr., Suite 146  
Memphis, TN 38134

THE UNDERSIGNED PARTIES enter into this Consent Decree in the  
matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43  
relating to the Marzone, Inc./Chevron Chemical Company Superfund  
Site in Tifton, Georgia.

Date: 9/8/04

SETTLING DEFENDANT(S): El Paso Corporation, on behalf of  
itself and its subsidiaries, including  
El Paso Tennessee Pipeline Company,  
Tennessee Gas Pipeline Company, and  
EPEC Polymers, Inc.

By: \_\_\_\_\_

Print or Type Name: Robert W. Baker

Address: 1001 Louisiana

Houston, Texas 77002

All notices shall be sent to:

El Paso Corporation

Attn: Kim Lesniak

1001 Louisiana

Houston, Texas 77002

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

Date: 8-30-04

By: \_\_\_\_\_

Print Name

Or Type: William E. Comer

Address: 1911 Traylor Boulevard

Orlando, FL 32804

For: TRAYLOR CHEMICAL & SUPPLY COMPANY

**All Notices Shall Be Sent To:**

Steven R. Bechtel

Mateer & Harbert, P.A.

P.O. Box 2854

Orlando, FL 32802

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

Date: 9/8/04

By: \_\_\_\_\_

Print Name

Or Type: Lane K. Bokor

Address: 16825 Northchase Dr

CORP-6P2-922 Houston, TX 77060

For: Exxon Mobil Corporation

All Notices Shall Be Sent To:

Dave Roberson

demaximis, inc.

2203 Timberloch

Suite 213

The Woodlands, TX 77380

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

Date: 09/03/04

By: \_\_\_\_\_

Print Name

Or Type: Brian C. Bosma, Attorney

Address: Kroger, Gardis & Regas, LLP

111 Monument Circle, Suite 900  
Indianapolis, IN 46204

For: KOVA Fertilizer, Inc.

KOVA of Georgia, Inc.

All Notices Shall Be Sent To:

Brian C. Bosma

Kroger, Gardis & Regas, LLP

111 Monument Circle, Suite 900

Indianapolis, IN 46204

\_\_\_\_\_

THE UNDERSIGNED PARTIES enter into this Consent Decree in the  
matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43  
relating to the Marzone, Inc./Chevron Chemical Company Superfund  
Site in Tifton, Georgia.

Date: 09-03-04

SETTLING DEFENDANT(S):

UNIVERSAL COOPERATIVES, INC.

1300 CORPORATE CENTER CURVE

EAGAN, MN 55121

By:

Print or Type Name: ROBERT L. ELLIS

Address: 1300 CORPORATE CENTER CURVE

EAGAN, MN 55121

All notices shall be sent to:

ROBERT L. ELLIS

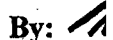
UNIVERSAL COOPERATIVE, INC.

1300 CORPORATE CENTER CURVE

EAGAN, MN 55121

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

Date: 8/27/04

By: 

Vice President, General Counsel and Secretary

Print Name

Or Type: W. Douglas Brown

Address: 7201 Hamilton Street

Allentown, PA 18195

For: Air Products and Chemicals, Inc. (the successor by statutory merger to Escambia Chemical Corporation, formerly Eschemco Corporation)

All Notices Shall Be Sent To:

David C. Keehn

Senior Attorney

Air Products and Chemicals, Inc.

7201 Hamilton Blvd.

Allentown, PA 18195



THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

**Date:** 09/10/04

**By:** \_\_\_\_\_

**Print Name** \_\_\_\_\_

**Or Type:** John A. Andreasen

**Address:** 3700 First National Tower, 1601 Dodge St.

Omaha, NE 68102

**For:** Estech, Inc.

**All Notices Shall Be Sent To:**

John A. Andreasen, Esq.

McGrath, North, Mullin & Kratz, PC LLO

3700 First National Tower

1601 Dodge Street

Omaha, NE 68102

402-341-3070

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

Date: 31 Aug 04

By:                     

Print Name

Or Type:

GORDON A. FURR

Address:

6001 Bellinger Cyn Rd. K2100

SAN RAMON, CA 94583

For:

Chevron Env. Agent Co, for itself  
& on behalf of Chevron Chemical Co,  
a Division of Chevron USA, Inc.

All Notices Shall Be Sent To:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

United States Steel Corporation  
600 Grant Street, Room 1500  
Pittsburgh, PA 15219-2800

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

Date: September 14, 2004

SETTLING DEFENDANT(S): Uniroyal Chemical Company, Inc.

By:

Its Vice President

Print or Type Name:

Alfred F. Ingulli

Address:

199 Benson Road

Middlebury, CT 06749

All notices shall be sent to:

Crompton Corporation

Asst. General Counsel, Environment, Health & Safety

199 Benson Road

Middlebury, CT 06749

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

Date: 10-1-04 (

SETTLING DEFENDANT(S): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Print or Type Name:

Charles Ray Taylor

Address:

386 Ray Taylor Road

Tifton, GA 31793

All notices shall be sent to:

(Same)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Marzone, Inc., et al., No. 7:02-CV-43 relating to the Marzone, Inc./Chevron Chemical Company Superfund Site in Tifton, Georgia.

Date: 2 Dec 04

SETTLING DEFENDANT(S): Harper Enterprises, Inc.

By:

Print or Type Name: Ralph F. Simpson, its Attorney

Address: 112 East 12th Street

Tifton, Ga. 31794

All notices shall be sent to:

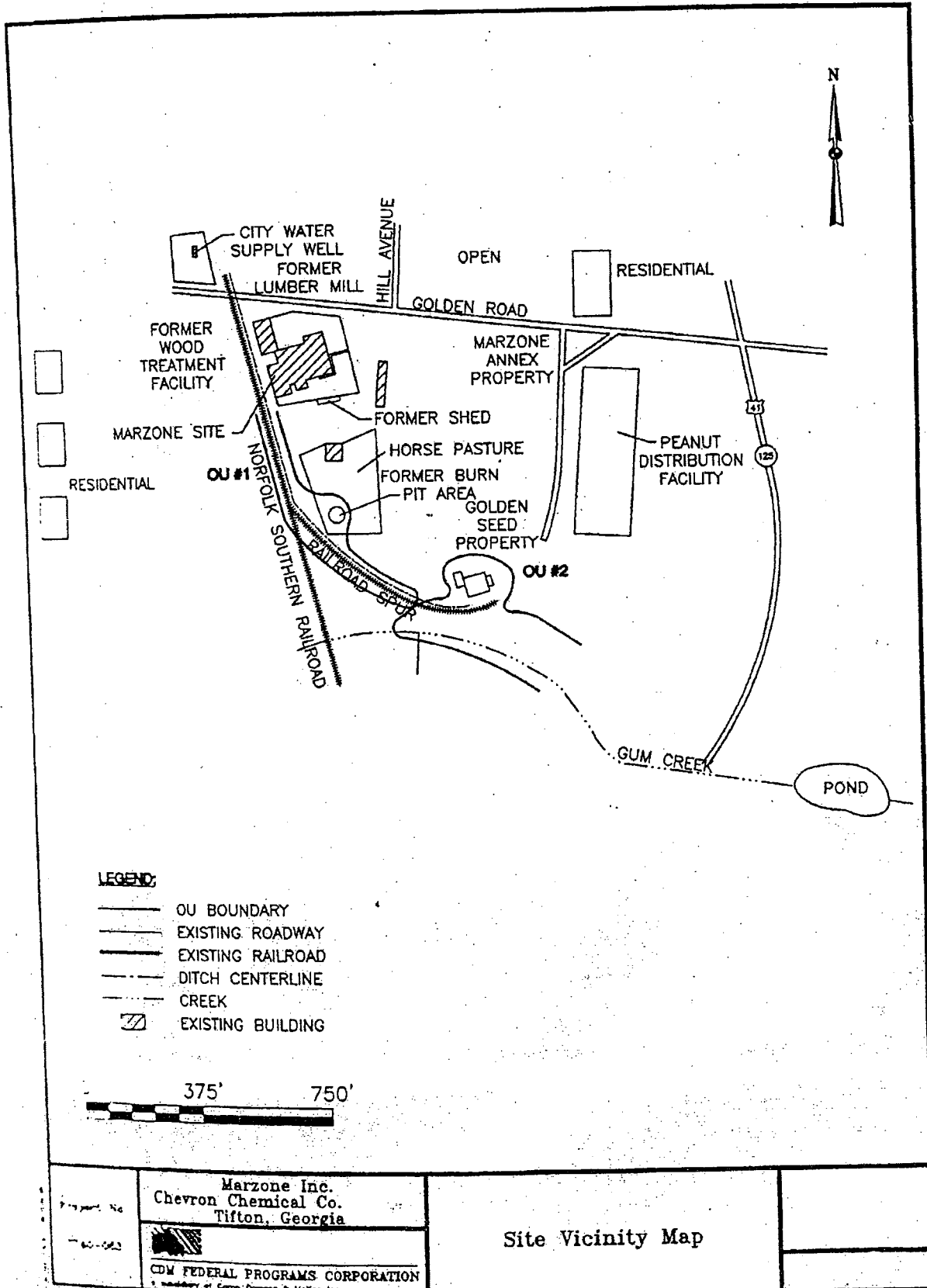
Ralph F. Simpson

The Simpson Law Firm

P.O. Box 327

Tifton, Ga. 31793-0327

# APPENDIX A



## Appendix B

Mr. Charles Ray Taylor  
Harper Enterprises, Inc.  
Chevron U.S.A., Inc.  
Chevron Chemical Co.  
Chevron Environmental Management Company  
Kova Fertilizers, Inc.  
Kova of Georgia, Inc.  
Hercules Incorporated  
Gold-Kist, Inc.  
United States Steel Corporation (formerly USX Corporation)  
Velsicol Chemical Corporation  
Universal Cooperative, Inc.  
Traylor Chemical & Supply Company  
Uniroyal Chemical Company, Inc.  
Air Products and Chemicals, Inc.  
Boise Cascade Corporation  
El Paso Corporation  
El Paso Tennessee Pipeline Company  
EPEC Polymers, Inc.  
Exxon Mobil Corporation  
Estech, Inc.